

COURT REPORTERS BOARD OF CALIFORNIA  
Department of Consumer Affairs  
California Code of Regulations, Title 16, Division 24, Court Reporters Board  
Fee Increase

## INITIAL STATEMENT OF REASONS

Subject Matter of Proposed Regulation: Initial Certificate, Annual Renewal, Delinquent, and Exam Fee Increase

Sections Affected: Section 2450 of Division 24, Title 16 of the California Code of Regulations (CCR).

### **Specific Purpose of the Proposed Changes**

The Court Reporters Board of California (Board) proposes to amend section 2450 of Division 24 of Title 16 of the CCR. The purpose for amending the regulation is to allow the Board to raise fees to address structural imbalances in the Board's budget and to ensure funding for the Transcript Reimbursement Fund.

Section 163.5 of the Business and Professions Code (BPC) sets the renewal delinquency fee at 50% of the renewal fee. Section 8007 authorizes the Board to adopt, amend, or repeal rules and regulations which are reasonably necessary to carry out the provisions of the chapter. Section 8008 authorizes the Board to charge and collect fees. Section 8031 establishes the statutory limits for the fees that the Board may charge and collect.

The initial certificate, renewal, delinquency, and exam fees have remained the same since 2011. In this proposed rulemaking, the Board seeks to amend Title 16 of the CCR, section 2450 to increase said fees as detailed below. These fee increases will apply to licenses that expire after the effective date of the regulation.

<b>FEE</b>	<b>EXISTING</b>	<b>PROPOSED</b>	<b>MAXIMUM</b>
Exam Fee per Section	\$25	\$50	\$75
Initial Certificate	\$125	\$225	\$250
Annual Renewal	\$125	\$225	\$250
Delinquent Fee	\$62.50	\$112.50	\$125
Initial Certificate valid for less than 180 days	\$62.50	\$112.50	\$125

The proposed fee increases intend to address the Board's structural imbalance and will protect the Court Reporters Board Fund from becoming insolvent as projected in FY 18-19. Analysis of the Board's fund balance measured by Months in Reserve projects that at the end of the current fiscal year 2017-18, a 2.9-month reserve will exist. However, the reserve is projected to steadily decline in the following fiscal years to the point where there will be a negative 0.2-month deficit at the conclusion of 2018-19. Currently the Board is unable to

fund the operation of the Board and fund the Transcript Reimbursement Fund (TRF) as doing so would cause the Board to have less than six months' operating expenses in reserve. Existing statute precludes any transfer of funds to the TRF when the Board's reserve is below six months; however, BPC section 8030.2, subdivisions (a) and (b) require the Board to set fees in such a manner as to permit funding of the TRF at statutorily specified levels. The Board administers the TRF, established in 1981 to aid qualified indigent litigants in civil cases by providing transcript reimbursement funds. To date, the TRF has disbursed over \$8.5 million to California's indigent population. In 2010, SB 1181 (Cedillo) authorized a two-year pilot project, expanding the TRF to qualified pro per litigants, and the pilot project became a permanent part of the fund in 2013. There is great demand for this portion of the fund, which expands access to justice to those most in need.

#### Impact to Renewal Fees

The proposed fee increase will equate to an increase of \$100 per year per licensed court reporter.

#### Impact to Delinquent Fees

Pursuant to BPC section 163.5, and in response to the implementation of the proposed renewal fee increase, the delinquency fees imposed on practitioners who fail to timely renew their license prior to expiration will also increase from \$62.50 per year to \$112.50 per year.

#### Impact to Initial Certificate Fees

Pursuant to Business and Professions Code section 8031, subdivision (c), and in response to the implementation of the proposed renewal fee increase, the initial certification fee will increase \$100 over the current amount. For initial certificates issued for less than 180 days before expiration, the fee will increase \$50.

#### Impact to Examination fees

The proposed fee increase will result in an increase of \$25.00 over the current fee for each section of the examination taken by the candidate. Each candidate must take and pass three different examination sections, resulting in a total increase of \$75.00 for the full examination process.

#### **Problem Being Addressed**

The board is currently experiencing a structural imbalance – expenditures outpace revenue. A review of the Board's fund condition report demonstrates an overall revenue decrease of 7% between 2012-13 to 2016-17 a 12% decrease in revenue due to fewer people seeking licensure leading to a limited licensee population. A review of the licensee statistics from the same time period demonstrates for every new license issued, two licenses are cancelled (usually due to retirement). The fastest growing segment of court reporting is Computer Aided Realtime Translation (CART), which provides instantaneous translation for the deaf and hard of hearing as well as closed caption for broadcasting. CART providers do not need a license to practice in California. A review of the fund condition reflects an overall 16 percent decrease in revenue during the same time period. The decrease in revenue correlates directly to the slow net decrease of application and renewal fee revenue.

The increase in expenditures over the past six years is tied to increases in employee salaries and benefits, pro rata charges, and enforcement costs as follows:

	FY 12-13	FY 13-14	FY 14-15	FY 15-16	FY 16-17
Actual Positions	4.5	4.8	5.0	4.7	4.8
Salaries & Benefits	\$419,000	\$492,000	\$539,000	\$531,000	\$572,000
Departmental Pro Rata	\$ 82,000	\$141,000	\$135,000	\$120,000	\$248,000
BreEZe	\$ 5,000	\$ 38,000	\$ 21,000	\$ 21,000	\$ 55,000

- Other costs that have contributed to additional expenditures in the last five years include one-time expenses of approximately \$100,000 associated with a lawsuit against U.S. Legal, an out-of-state corporation.
- The Board has incurred one-time expenses associated with an updated occupational analysis, as well as increases in rent and license exam site rental.

Notwithstanding the increases in expenditures, the Board has undertaken every effort to increase efficiencies while reducing expenditures over the years, including participating in the Consumer Protection Enforcement Initiative (CPEI). CPEI focuses on increasing efficiencies with the overriding goal of completing the entire enforcement process for a licensee within 18 months. Additional training was provided to enforcement staff as well as cross-training provided to help complaints get processed as efficiently as possible.

As an additional cost-saving measure, the Board has decreased the number of meetings. In 2009 the Board was meeting quarterly. Since that time the Board meets only the minimum three times required by statute, only adding in an additional meeting when necessary to deal with pressing Board business.

#### Comparison to Consumer Price Index

In addition, the initial certificate, renewal, and delinquent fees have remained unchanged since 2011, while the Consumer Price index has increased over those years. The rate of inflation is calculated at 10.15 percent since 2012 and 33.46 percent since 2002 (See The Bureau of Labor Statistics' Consumer Price Index Detailed Report Data for December 2015 - Table 24). A review of the fund condition reflects an overall 60 percent increase in expenditures from 2012-13 to 2016-17.

#### **Anticipated benefits from this regulatory action**

The proposed fee increases address the Board's structural imbalance and are aimed at protecting the fund from becoming insolvent. The proposal is designed to enable the Board to maintain its licensing, disciplinary, and oversight operations mandated to protect California's consumers. The proposal also allows for funding of the TRF, an important legislative mandate benefitting qualified indigent litigants, which the Board is statutorily commanded to consider when setting fees authorized by BPC section 8031 and is required to fund pursuant to section 8030.2, subdivision (e).

### **Factual Basis/Rationale**

Currently BPC section 8031 provides a statutory ceiling of \$250 for license renewal. The renewal fee was last increased by regulation in 2011. The demonstrated increase in costs is a fraction of the amount of inflation on the United States dollar's 10.15 percent increase since 2012 and 33.46 percent increase since 2002.

Current budget projections show that the Board's fund balance as measured in Months in Reserve will steadily decline to the point where there will be a negative 0.2-month deficit by the end of 2018-19. Therefore, the Board proposes to increase fees to preserve its fiscal solvency while continuing to make every effort to look for cost-saving efficiencies. A fee increase is necessary in order for the Board to continue to carry out its legislative mandate of oversight of the court reporting profession. Specifically, absent the proposed fee increase, licensing and enforcement activities will need to stop. Funding for the Transcript Reimbursement Fund has already stopped. After the proposed fee increase is implemented, the fund is projected to have 4.2 months in reserve starting in 2018-19. Starting in 2019-20 the Board will be able to fund the TRF \$300,000 annually.

As reflected in the Board's projected fund condition statement, the Board proposes to set the renewal fee at a level that will ensure the Board's fiscal solvency beyond 2018-19. Additionally, the proposed fee was set to ensure the Board's ability to fund the TRF pursuant to BPC section 8031. The initial certificate and delinquency fees are statutorily tied to the renewal fee and, consequently, will increase due to the increase to the renewal fee. The Board proposes to set the examination fee at a level equivalent to the actual cost to the Board of preparing, administering, grading, and analyzing the exam as required under section 8031.

### **Underlying Data**

As identified above, the increase in fees is based upon the following materials:

1. Consumer Price Index (January 2017)
2. Fee Increase – Minutes from July 6, 2017 Board meeting (draft)
3. CRB Fund Condition 2016-17 through 2018-19
4. TRF Fund Condition 2016-17 through 2018-19
5. CRB Fund Condition 2011-12 through 2018-19
6. CRB Fund Condition with fee increase 2016-17 through 2022-23
7. Historical Expenditures
8. Revenue Increase Chart
9. BreEZe Costs
10. Sample Official Court Reporter Salary Information

### **Business Impact**

The proposed amendments to section 2450 will not have a significant adverse economic impact on businesses as the fee increases only impact individual court reporters.

### **Economic Impact Assessment**

This regulatory proposal will have the following effects:

- It will not create or eliminate jobs within the state of California because the regulation

does not make any changes or provide for any new provisions that would affect the creation or elimination of jobs because it affects individuals rather than businesses.

- While the increase for renewal of the license fee is by percentage a large increase, the license renewal fee is small in comparison to the average salary of official court reporters, which ranges from \$5,400 to \$9,700 per month as demonstrated by the job recruitments attached as an exhibit in the Underlying Documents.
- It will not create new business or eliminate existing businesses within the state of California because the regulation does not make any changes or provide for any new provisions that would result in the creation or elimination of new businesses.
- It will not result in expansion of any businesses currently doing business within the state of California because the regulation does not make any changes or provide for new provisions that would directly affect the expansion of any businesses.
- This regulatory proposal will benefit the health and welfare of California residents because this proposal ensures the Board will remain fiscally solvent to administer and enforce the provisions of the Court Reporters Act in the interest of consumer protection.
- This regulatory proposal also will increase access to the California justice system as it will ensure statutorily-mandated funding for the TRF, administered by the Board to provide transcript reimbursement to qualified indigent litigants.
- This regulatory proposal does not affect worker safety because this proposal is specific to fee increases and it is not anticipated to impact current business practices or registration trends affecting worker safety.
- This regulatory proposal does not affect the state's environmental safety because it is specific to an increase in fees and is not anticipated to impact current business practices that may affect the state's environment.

### **Specific Technologies or Equipment**

This proposed regulatory action does not mandate the use of specific technologies or equipment.

### **Consideration of Alternatives**

No reasonable alternative to the regulatory proposal would be either more effective in carrying out the purpose for which the action is proposed or would be as effective or less burdensome to affected private persons and equally effective in achieving the purposes of the regulation in a manner that ensures full compliance with the law being implemented or made specific.

Any proposal for a fee increase less than what is being proposed will not allow the Board to fund the TRF, a statutory mandate from the Legislature, because the months in reserve would drop below six. Keeping fees at the current levels would prevent the Board from

fulfilling its consumer protection mandate because it would no longer have the available funds to fund the Transcript Reimbursement Fund as required by law by the end of calendar year 2017.